

CALIFORNIA COASTAL COMMISSION

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W15b

A-3-STC-19-0208 (DREAM IN MIXED-USE EXPANSION)

JULY 12, 2023 HEARING

CORRESPONDENCE

January 17, 2020

Via email and US Mail

Dan Carl, Director, Central and North Central Coast
California Coastal Commission
725 Front Street, #300
Santa Cruz, CA 95060
Dan.Carl@coastal.ca.gov

RECEIVED

JAN 23 2020 LH
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

RE: Appeal of the City Santa Cruz's approval of 190 W. Cliff Drive

Dear Mr. Carl,

I submit this letter in support of the appeals of the City of Santa Cruz's ("City") approval of a multi-family development located at 190 W. Cliff Drive (the "Project"). In particular, this letter expands on and supports appellants' contention that the City's approval of the Project was in violation of the height limits set forth in the Local Coastal Plan (LCP). Appellants will submit additional letters in the near future to address other issues raised by the appeals.

The proposed Project exceeds the LCP height limits by a very large margin. The City initially granted the developer an exception to the height limit in order to accommodate the affordable housing component of the Project, which is only 15% of the total number of units. By invoking the density bonus provisions of Santa Cruz Code, the City agreed to increase the height of the building from 36 to 47 feet. The reports the City released to the public, however, do not include any analysis of the developer's entitlement to this height increase or proof that without the additional height, the affordable component of the Project would be infeasible. As such, there is no evidence or analysis that supports the City's grant of a height exception to accommodate the affordable housing component of the Project.

Not satisfied with the 11 foot height increase that affords it an entire additional floor, the developer also successfully lobbied the City for a further exception to the height limit in order to provide rooftop decks totaling 13,077 square feet. Based solely on an unreasonable and unlawful interpretation of the City Code Section 24.12.150, the City approved a further exception to the LCP's height limits, raising the height to 56 feet, thereby essentially adding an entire fifth level to accommodate 27 private rooftop decks which will require 27 private stairway housings, and 42-inch safety railings surrounding each deck, as required by the City's building code. The fifth level design further specifies covering each private deck with a shade canopy 10 feet high (labeled "trellis" in the design plan) with photovoltaic panels installed on top.

According to an October 7, 2019, Planning Staff Agenda Report, the height exception is based on provisions of Section 24.12.150 that allows specific architectural features to exceed the height limit, including "cupolas, scenery lofts, or other roof structures for the



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housing of elevators, stairways, tanks, ventilating fans, air conditioning, or similar equipment used solely to operate and maintain a building.” Staff also found support for the proposed height exception in the applicable Design Guidelines, which call for the incorporation of window overhangs, trellises, wall articulation, and other features to “avoid a bare box appearance.” As set forth below, the Staff’s analysis and interpretation of Section 24.12.150 is patently unreasonable and its reliance on provisions of the Design Guideline in support of the additional height is inapposite.

Section 24.12.150 does not authorize the City to grant a height exception to accommodate additional livable or open space such as rooftop decks. Nothing in the text or structure of Section 24.12.150 indicates that its provisions were ever intended to provide height exceptions to create additional rooftop decks or other open or livable space, as the City has done here. In fact, none of the architectural features specified in Section 24.12.150 and considered and addressed by the Staff Report increase livable space, as the additional height would in this case. As such, the City’s reliance on §24.12.150 is entirely misplaced.

Staff concluded that the intent of the height exception was to “allow for a range of architectural features to exceed the height limit ... used solely to operate and maintain a building.” By so doing, Staff sought to divert the focus of analysis away from the true purpose of the height exception here, which is to shoe-horn an additional 13,000 square feet of living space in the shape of livable rooftop decks. According to the Staff Report, “the intent of the height exception is to allow for a range of architectural features to exceed the height limits, including stairways and separately, including equipment used solely to operate and maintain a building.” Based on this interpretation, Staff concluded that the stairwells, railings around rooftop open space, and solar panels on trellises would qualify for this height exception. Staff’s interpretation of the height exception cannot withstand scrutiny.

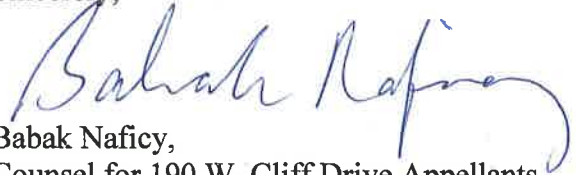
The Staff’s conclusion that railings around the rooftop decks and solar panels on trellises are eligible for a height exception violates §24.12.150 because there is no evidence or argument to suggest these features are necessary for the operation or maintenance of the building. It seems clear that the design components only serve to make the rooftop decks feasible. Staff’s interpretation must be rejected because §24.12.150 permits architectural features to exceed the height limits only where they are essential to the operation or maintenance of the building. Here, there is no evidence or argument to suggest the stairwells, railings or solar panels on trellises are necessary for the operation or maintenance of the building. These features allow the developer to add private rooftop decks. The height exception does not apply because the sole purpose of the height exception is to accommodate rooftop decks, which are not a permitted use for height exceptions under Section 24.10.150. Accordingly, the City could not lawfully approve a height exception for the rooftop decks.

Likewise, the Staff’s reliance on the Design Guidelines as support for the height exception is unavailing. Design Guidelines do not have the force and effect of building regulations, and as such, cannot be relied upon to grant a height exception.

Finally, we must emphasize that the issue here is not the merits of rooftop decks in general, or whether this Project would benefit from additional livable space on the roof. Nothing in the City

Code could authorize the City to grant an exception to the height limit for rooftop decks or similar features. Thus, unless the Coastal Commission grants this appeal, this Project would set a dangerous precedent allowing coastal cities to grant an exception to the height limits or other building regulations in order to accommodate a project feature the city finds desirable. Based on the foregoing, I hope you agree that the appeal has merit and raises substantial issues that must be fully vetted and considered by the Coastal Commission. I am available to discuss these or any related issues or answer any questions, so please do not hesitate to call.

Sincerely,



Babak Naficy,
Counsel for 190 W. Cliff Drive Appellants

cc. Colin Bowser via email
Susan Craig via email
Kevin Kahn via email

January 20, 2020

Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060-4508

RECEIVED

JAN 22 2020
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

190 W. Cliff Drive
refer: Cliff @ Bay Project

Dear Commissioners,

We are residents (and homeowners) of 200 West Cliff Drive Unit 11, neighbors to the coming 190 West Cliff Drive project. We have attended many of the public meetings for the project as well as a meeting between West Cliff Villa homeowners and the Dream Inn / Ensemble developers. We are largely **in favor of the 190 West Cliff project**. The incorporation of community input for this new development has been incredible. We personally feel that it will be a good addition to the area.

Aspects of the development we like:

- Each of the commercial aspects, especially the cafe, spa, and open market concept
- Beautiful modern architecture
- Improved biking and pedestrian infrastructure on Bay and W Cliff
- The development includes biking storage for residents
- This area is *extremely* walkable with decent transit nearby
- Majorly improved intersections (roundabouts are much better than stop signs)
- The project includes the *first* very low-income homes for sale in a long time in Santa Cruz, in addition to 2 low-income homes for sale

For too long, Santa Cruz has operated in an anti-growth mindset which has hurt both residents and the environment more than it helped them. It's caused displacement, soaring rents, and climate impact due to the necessity of cars throughout Santa Cruz County and neighboring counties. As a family of five, we want to see our city grow to accommodate not only us but also everyone that lives and works here, for generations to come. At the same time, we want to see more sustainable living choices like this to exist.

On the proposed roundabout -- we think it would greatly ease congestion in the area especially given all the traffic on West Cliff Drive spilling towards the wharf and boardwalk. It delights us to know that this project will help facilitate getting the roundabout put in place with concessions from Ensemble. We hope this project is able to get underway soon.

Thank you all so much for reading this letter and hearing our position.

Sincerely,


Kyle and Carolyn Kelley

From: CentralCoast@Coastal
To: Craig_Susan@Coastal; Ford_Kiana@Coastal
Subject: Fwd: SAVE OUR OPEN SPACE !
Date: Sunday, June 25, 2023 6:59:06 AM

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From: Phyllis Galvan <bladelady@sbcglobal.net>
Sent: Saturday, June 24, 2023 11:14:42 AM
To: CentralCoast@Coastal <CentralCoast@coastal.ca.gov>
Subject: SAVE OUR OPEN SPACE !

Dear Coastal Commissioners,

I am asking that you side with the appeals before you, and stop the huge project that has been proposed.

I am a resident of the Clearview Court Mobile Home community that is adjacent to the proposed project. When I say adjacent I mean my house is 10 feet from the rear entrance of the service drive way where all the deliveries and trash removal will take place. This alone is very disturbing but that's not all.

I am an avid gardener and bird watcher. Because of where we live with the ocean across the street and Nearys lagoon behind us we have many bird species that fly the path over my home and across where the proposed building site sits. This project will definitely affect the flight patterns of these birds. Many birds live or visit the trees in lot, some for example are a pair of Great Horned Owls, Hawks, Falcons, Herons, Eagles, Doves, Pigeons, Ducks, Geese, Cormorants, many smaller species nest in and enjoy the small trees adjacent to our homes. I won't be able to enjoy this and others will not as well. The garden I have had for many years will be gone because the sun will be blotted out by the giant building. This sun deprivation will not only completely change all the vegetation but will actually make our manufactured in danger of moisture and mold, these homes do not hold up well in this type damp dark environment. Many homes in our community will be adversely impacted.

I have lived in ClearView Court for 39 years I am aware that the ground we live on is not stable, here and the surrounding areas. We have homes on the edge of our park that are going over the Cliff due to erosion. Over the years many very large sink holes have opened up below our homes. As we know West Cliff Dr is collapsing I only envision this getting worse not better in years to come. With this instability I don't think we can withstand all the extensive digging and major construction that we will have to endure for years during the building process. The noise and intrusion by that scale of construction will not be livable during that period.

Then the added traffic to an area which is already a nightmare, we will be adding trucks hauling dirt and all the other vehicles involved in the construction mixed with residential and tourist traffic. I cannot imagine how emergency vehicles would have access to the beach and community nearby. This is an already very congested area near the main beach this building will compound the problem. Will we have enough water over the coming years to support this scale of building.

These are but a few issues that we will be presented if this project is allowed to move forward.

We desperately need to preserve some of our open space for the environment and living species that are currently living here. This is definitely not something that will help the housing situation as it is not truly affordable. Our mobile home community on the other hand is an important part of the real affordable housing stock. As we become displaced due to this project so goes our affordable housing. Replaced by the more affluent in an area that is already being impacted by Gentrification. Please consider how important this last open space is for the environment.

Thank you for your time and consideration,

Phyllis Galvan
170 West Cliff Dr. SPC 44
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Sent from my iPad

From: Kathy <kathycheer43@gmail.com>
Sent: Sunday, January 12, 2020 11:45 AM
To: Frankel, Annie@Coastal <Annie.Frankel@coastal.ca.gov>
Subject: So glad I found you to help fight 190 West Cliff Project

I live in Santa Cruz, next door to a proposed monolith of a structure with promise of a drastic invasion on me and my neighbors' enjoyment of where we live. 190 West Cliff, next door to Clearview Court Mobilehome Park at 170 West Cliff, has a website to help you better understand what is afoot. Several entities with money plan to erect an underground garage, with retail spaces on the 1st floor and two floors dedicated to lease or rental units. Only 10 of those units will be priced to accommodate lower income, whatever \$ amount, to be announced.

Co-Presidents of the Clearview Court Homeowners Association have been attending City Council Planning Sessions and I, for one, have sent articles from the "LA Times", the "Santa Cruz Sentinel" and "Orange County Register" and now, "CA King Tides Project" in protest of 190 West Cliff due to historical and impending erosion of the sea cliffs and rising seas. The City Council recently held another vote which passed, with protest, the motion to continue the project. I think, viewing the 190 West Cliff Project, Santa Cruz, you will be aghast at the size of the envisioned which is located across the street from the popular Dream Inn Hotel. So with traffic congestion during high tourist season at the entrance and exit to our Park, there is Fisherman's Wharf and Boardwalk down the street as well. Traffic and air pollution will increase due to additional vehicles in this area, noxious fumes will emanate from the parking garage literally right outside my bedroom window and deck in my back yard. Sunlight and any kind of view will be blocked by the four story invasion of concrete.

I will refer your organization to 190 West Cliff movers and shakers and maybe you can convince them of the folly of their unwise pursuit. For these guys it's a self-aggrandizement affair, their egos are involved in such a visible, close to the tourist action one block from the ocean. But up and down West Cliff, beach and cliff erosion is highly visible, and the developers, as I understand, plan to built up the beach and cliff line, reinforce it with concrete pilings (extinguishing the beach on one side) and sinking pylons deep into the earth to anchor the overall structure.

As we all know, Mother Nature always has other plans. And I think that far wiser is to make plans for the future as this area is a major source of income to the city. If interested, as well me giving the City Council Planning Dept information about CA Kingtides, perhaps you might put a bug in their collective ears. "Santa Cruz Sentinel", amazingly, has run articles about rising seas for a number of years so this reality is no secret to the 190 West Cliff's venture. One investor, new owner of the Dream Inn, lives in Woodside, CA and another lives near Santa Barbara, I think. I can give more info about these people.

Thank you for whatever help you can give us as the next serious hearings are in February. Kathy Cheer 831 426 8114

From: CentralCoast@Coastal
To: Craig_Susan@Coastal
Subject: Fw: Public Comment on July 2023 Agenda Item Wednesday 15b - Appeal No. A-3-STC-19-0208 (190 West Cliff Drive Mixed Use, Santa Cruz)
Date: Thursday, June 29, 2023 1:00:18 PM

From: geri lieby <glieby@gmail.com>
Sent: Thursday, June 29, 2023 10:23 AM
To: CentralCoast@Coastal <CentralCoast@coastal.ca.gov>
Subject: Public Comment on July 2023 Agenda Item Wednesday 15b - Appeal No. A-3-STC-19-0208 (190 West Cliff Drive Mixed Use, Santa Cruz)

Please reject the appeal brought by Gillian Greenspan et al. Ms Greenspan challenges most development plans in the city. I live in the neighboring area and attended the meetings about the proposed project. It respects the environment and neighbors. It will improve traffic: vehicle, pedestrian and cycling with improved sidewalks and road patterns. It will increase accessibility to the coast with the safer corridors and public open spaces. This parcel currently is a large, private asphalt parking lot rimmed by shipping containers. It is an eyesore and offers no public use. The development will provide much needed housing.

geri lieby
glieby@gmail.com